

SUBMISSION

Reconsideration of this application as amended is respectfully requested. Claims 31, and 123-133 are currently pending, and have been rejected. Please note in this regard that claims 32-39 were deleted in the Amendment and Response to Office Action filed on 2/25/03, although the Examiner has indicated that these claims are currently pending. The Examiner is respectfully requested to remove claims 32-39 from further consideration.

In the accompanying amendment, claims 31, 124-125, and 127-133 have been amended. Support for the amendments to claims 31, 124-125, and 127-133 may be found in the specifications, the drawings, and the claims as originally filed. Thus, the amendments to claims 31, 124-125, and 127-133 do not add new matter. Moreover, it is respectfully submitted that the amendments to claims 31, 124-125, and 127-133 place the claims in better condition for allowance or appeal, and are therefore appropriate for entry under 37 CFR § 1.116.

The Examiner has rejected claims 31-39 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In this regard, the applicant has amended claim 31 to indicate clearly that it is the width of the gate layer that is constant or uniform along a height of the gate layer. In view of this amendment to claim 31, it is respectfully submitted that claim 31 now complies with 35 U.S.C. § 112, second paragraph.

Claims 31-39 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,726,479 (Matsumoto et al.).

In order to establish a *prima facie* of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art references (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Federal Circuit 1991).

One limitation of claim 31, as amended, is "a gate layer disposed on said insulative layer, the gate layer being of uniform width along a height thereof." Matsumoto discloses a gate layer (Figure 8) which includes a polysilicon electrode 4a and a silicide layer 9a formed on the top surface of the polysilicon electrode 4a and on portions of the sides thereof. The portions of the silicide layer 9a formed on the sides of the polysilicon electrode 4a serve to increase an overall length of the silicide layer 9a, thereby to reduce a resistance thereof, (see Column 11, lines 5-15). The reduction of the resistance of the silicide layer 9a is a stated goal of the invention of Matsumoto (see Column 4, lines 30-40). A necessary consequence of the silicide layer 9a being formed on the side walls of the polysilicon electrode 4a is that the polysilicon electrode has to have a stepped cross-section, so in other words, the polysilicon electrode 4a has to have a non-uniform width along its height. The polysilicon electrode 4a of Matsumoto corresponds to the gate layer recited in claim 31 of the present application. Therefore, it is respectfully submitted that Matsumoto fails to teach or suggest a gate layer, wherein the width of the gate layer is uniform along a height of the gate layer.

Further, one skilled in the art would not be motivated to modify polysilicon electrode 4a of Matsumoto so that it has a uniform width along its height, because to do so would defeat the objective of increasing the overall length of the silicide layer 9a.

On account of the foregoing, it is respectfully submitted that claim 31, as amended, is not anticipated or rendered obvious by Matsumoto et al. Further, given that claims 123-133, depend on claim 31, it is respectfully submitted that these claims are also not anticipated or rendered obvious by Matsumoto et al.

It is respectfully submitted that in view of the amendments and remarks set forth herein, all rejections have been overcome. All pending claims are now in condition for allowance, which is earnestly solicited. Thus, it is respectfully requested that the amendments be entered and that the rejections to the claims be withdrawn.

Please charge any shortages and credit any overages to Deposit Account No. 02-2666. Any necessary extension of time for response not already requested is hereby requested. Please charge any corresponding fee to Deposit Account No. 02-2666.

Respectfully submitted,
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